

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **DISTRICT OF NEVADA**

3   \* \* \*

4  
5 UNITED STATES OF AMERICA

6                                   Plaintiff,

7                                   v.

8 RICK VANTHIEL

9                                   Defendant.  
10

Case No.: 2:15-cr-340-RFB

**ORDER**  
**on**  
**MOTION FOR ISSUANCE OF**  
**SUBPOENAS [ECF 68]**

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12           Mr. Vanthiel representing himself *pro se* has filed a sealed Motion [ECF 68] for the  
13 Issuance of Subpoenas in this case. For the reasons stated below, the Court grants in part and  
14 denies in part this motion.

15           **I. Background**

16           Mr. Vanthiel is charged in a superseding indictment in this case with being a felon in  
17 possession of a firearm and ammunition in violation of 18 U.S.C. §922(g). The Court  
18 incorporates by reference the record and docket in this case. This case is set for trial on August  
19 22, 2016.

20           **II. Legal Standard**

21           An indigent defendant may request the issuance of subpoenas pursuant to Rule 17(b) of  
22 the Federal Rules of Criminal Procedure. Rule 17(b) provides that a “court must order that a  
23 subpoena be issued for a named witness if the defendant shows an inability to pay the witness’s  
24 fees and the necessity of the witness’s presence for an adequate defense.” *Id.* A motion under  
25 Rule 17(b) may be denied (1) where the request is untimely; (2) where the testimony would be

1 cumulative; (3) where the defendant has failed to make a satisfactory showing as required by the  
2 Rule; or (4) where the requested subpoena would in some other way constitute an oppressive and  
3 unreasonable use of the process of the court. United States v. Sims, 637 F.2d 625, 629 (9th Cir.  
4 1980) (citations omitted).

### 5 **III. Discussion**

6 The Court construes Mr. Vanthiel's motion as an application for the issuance of  
7 subpoenas pursuant to Rule 17(b). In his sealed motion, Mr. Vanthiel identifies a series of  
8 questions that he seeks to ask of two groups of potential witnesses listed in his motion. His  
9 motion does not distinguish between the lists of witnesses in terms of what information he  
10 expects each will provide. He simply lists a common set of questions to be asked to each of the  
11 witnesses in the first group. For the second group of witnesses, he indicates that he would only  
12 ask them one open-ended question. These questions all appear directed toward his announced  
13 defense (at a hearing yesterday, August 18, 2016) of attacking the bias and motivation of law  
14 enforcement regarding the investigation into his activities.

15 The Court finds that Mr. Vanthiel has made sufficient showing for the Court to order the  
16 issuance of four trial subpoenas from the first group of witnesses he identified. The Court denies  
17 the motion with respect to the remaining witnesses, because their testimony would be  
18 cumulative, they are not necessary to his defense, and the request itself is untimely. As Mr.  
19 Vanthiel did not distinguish between the witnesses in terms of testimony, the Court will order the  
20 issuance of the four subpoenas for individuals who appear to be available based upon previous  
21 representations by the government or based upon their appearance on the government's witness  
22 list.

23 The Court orders the issuance of trial subpoenas pursuant to Rule 17(b) to the following  
24 individuals:

25 1. Officer Kenneth Mead

2. Officer Peter Marwitz
3. Officer Chris Matthews
4. Officer Jon Kikkert

#### **IV. Conclusion**

IT IS ORDERED that the Motion for Issuance of Trial Subpoenas [ECF 68] is granted in part and denied in part.

IT IS ORDERED that Clerks' Office is directed to prepare trial subpoenas for the above-named individuals to testify at the trial in this case starting on August 22, 2016 at 9:00 a.m.

IT IS ORDERED that the United States Marshal's Office shall immediately serve these trial subpoenas on the above-named individuals. The Marshal's Office shall pay for and provide for the witness fees and travel fees required under Rule 17 of the Federal Rules of Criminal Procedure.

IT IS ORDERED that government counsel in this case shall immediately provide whatever contact or address information it has regarding the above-named witnesses to the United States Marshal's Office.

DATED: this 19th day of August, 2016.



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RICHARD F. BOULWARE, II.  
United States District Court Judge